

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JAMES BEAM, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

MICHAEL C. BEAM,

Respondent-Appellant.

UNPUBLISHED

September 16, 2003

No. 246983

St. Clair Circuit Court

Family Division

LC No. 01-000412-NA

Before: Smolenski, P.J., and Murphy and Wilder, JJ.

MEMORANDUM.

Respondent appeals as of right from the trial court order terminating his parental rights to the minor child under MCL 712A.19b(3)(n)(i). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Respondent first argues that the trial court erred in excluding the minor child's testimony. A trial court's decision regarding the admissibility of evidence is reviewed for an abuse of discretion. *People v Katt*, 468 Mich 272, 278; 662 NW2d 12 (2003). The record indicates that the child would have testified as to having a strong bond with respondent and his desire to remain with respondent. Several other witnesses testified similarly as to the child's feelings for respondent. The court indicated its understanding of the child's position and expressed its concern regarding the effect testifying would have on the child. Therefore, we find that the trial court did not abuse its discretion in prohibiting the minor child from testifying. MRE 403; MRE 611; *Haberkorn v Chrysler Corp*, 210 Mich App 354, 362; 533 NW2d 373 (1995); *Hartland Twp v Kucykowicz*, 189 Mich App 591, 595; 474 NW2d 306 (1991).

Respondent also argues that the trial court clearly erred in determining that the statutory ground for termination was established by clear and convincing evidence. MCL 712A.19b(3)(n)(i) provides that a parent's parental rights may be terminated if the parent is convicted of at least one of the offenses listed in the statute, which includes MCL 750.520d, and continuation of the parent-child relationship would be harmful to the child. During the pendency

of the proceedings, respondent pleaded guilty to third-degree criminal sexual conduct, MCL 750.520d, involving his fifteen-year-old stepdaughter. Respondent denied responsibility for the actions that led to his conviction. Evidence was also presented that, following jail visits with his father, respondent's minor child displayed inappropriate behavior of a sexual nature in school, was defiant, destroyed property, and was stealing. The child's behavior of acting out ceased after he stopped visiting his father. We find that the trial court did not clearly err in determining that it was not in the minor child's best interest that the parent-child relationship continue, and that the statutory ground for termination was established by clear and convincing evidence. MCR 5.974(I), now MCR 3.977(J); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

Affirmed.

/s/ Michael R. Smolenski
/s/ William B. Murphy
/s/ Kurtis T. Wilder